

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:20-cr-00135-SRC
)	
LAWRENCE R. ARNOWITZ,)	
)	
Defendant.)	

SENTENCING MEMORANDUM
REQUEST FOR DOWNWARD VARIANCE FROM ADVISORY
SENTENCING GUIDELINE RANGE

Comes now Defendant, by and through counsel, and gives notice of his intent to Request a Downward Variance from the Advisory Sentencing Guideline Range upon adoption of the Presentence Report. It is anticipated that on August 28, 2020, Lawrence Arnowitz will plead guilty to knowingly violating Title 18, U.S.C., Section 1341 (Mail Fraud). This plea is pursuant to a written plea agreement in which the parties agreed that either party may request a sentence above or below the sentencing guideline range.

The Presentence Report proposes an offense level 13 and criminal history of I in Zone C of the Federal Sentencing Guidelines, resulting in an Advisory Sentence of 12-18 months in the Bureau of Prisons.

Defendant will argue for a guideline sentence of 12 months at sentencing. In a Zone C eligible sentence, the Court could satisfy

the minimum term by substituting home detention for one-half of the minimum term. The variance requested is to place Defendant on home detention for between 6 to 12 months in lieu of imprisonment, followed by supervised release term to be determined by the Court.

18 U.S.C. Section 3553(9) identifies factors to be considered in imposing a sentence.

Defendant is aware of the seriousness of the offense, the need of a deterrence to criminal conduct and to protect the public from further crime by Defendant. 18 U.S.C. Section 3553(a)(2)(a,b,c).

Pursuant to 18 U.S.C. Section 3553 (a)(2)(d), the Court may consider as a factor in sentencing, Defendant's needed medical care. Defendant's current medical status is documented in the Presentence Report. The current medical status of Defendant's wife is also indicated in the Presentence Report. As a 66 year old individual with preexisting conditions of diabetes and high blood pressure, Defendant is in the high-risk category for contracting COVID-19.

Pre-COVID-19, the usual practice would be for Defendant to serve any imposed sentence in the Bureau of Prisons.

Post-COVID-19, it is a reasonable expectation any sentence imposed may not be served in the Bureau of Prisons. Due to COVID-19, any imposed sentence of imprisonment could ultimately be served locally in one of the various County jails within 100 miles of the Metropolitan St. Louis area. Many of these facilities have had outbreaks of COVID-19. The medical care provided to prisoners could

vary from County to County, resulting in an enhanced risk to Defendant's health as well as an increased potential expense to the County in caring for the Defendant's medical needs.

Given the Defendant's age and lack of any prior criminal history, Defendant will obey any and all conditions the Court imposes.

Defendant believes such a sentence would further the interest of justice, afford adequate deterrence to criminal conduct, and provide just punishment for the offence.

Defendant could request greater variances ranging from a minimum sentence of time served with supervised release, to a prison sentence between 2 days to 6 months followed by a period of supervised release. Nevertheless, Defendant believes the request for home detention in lieu of imprisonment served in a County jail facility as outlined above, balances the best interests of justice and the best interests of Defendant, taking into account the intent of the parties in reaching an agreement.

It is the position of the Defendant that the statutory provisions set forth herein above reflect that a downward variance is appropriate in Mr. Arnowitz's case.

/s/ Patrick T. Conroy
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the Office of the U.S. Attorney this 18th day of August, 2020.

/s/ Patrick T. Conroy
Patrick T. Conroy #41160MO